**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORIGINAL SIDE.**

**CENTRAL EXCISE APPLICATION NO. 30 OF 2001.**

The Commissioner of Central
Excise, Mumbai I. ..Applicant
vs.
British Pharmaceutical
Laboratories. ..Respondent.

Shri S.M.Shah with Y.R. Mishra for the applicant.

**CORAM: V.C.DAGA &**
**J.P.DEVADHAR,JJ.**
**DATED: 20-4-2005.**

P.C.

1. Heard learned Counsel for the applicant.

2. The question sought to be raised reads as under:

> "Whether on the facts and in the circumstances of the case the Tribunal was right in law in holding that the authorization granted by the Commissioner of Central Excise for preferring appeal toi the Tribunal against the order of Commissioner (Appeals) was defective, notwithstanding the fact it is mentioned in the grounds of appeal to the CEGAT being Appeal No. E/468/95-BOM that the impugned order in appeal is not proper, correct and legal."

On the last date of hearing, the learned Counsel appearing for the applicant was directed to produce authorisation so as to examine actual text of authorisation; to decide whether or not authorisation was defective as observed by the Tribunal.

3. Having perused the authorisation, we find that

there is no mention in the authorisation that the order against which appeal was to be preferred was prejudicial to the interest of the Revenue. Learned Counsel for the applicant submits that it was not necessary to mention in the authorisation that the order was prejudicial to the interest of the Revenue in view of the Supreme Court judgment in the case of Rohit Pulp and Paper Mills Ltd. 1999 (108) ELT 5.

4. Submission made is misplaced. The Apex Court in the case of M/s Rohit Pulp and Paper Mills Ltd. had actually examined the notesheet; so as to read the mind of the officer passing the order of authorisation.

5. On being asked, Shri Shah, Counsel for the Revenue submitted that no such notings exist on the file so as to demonstrate that the authorisation was sought on the ground that the order was prejudicial to the interest of Revenue nor any material is available to read the mind of the concerned officer that he was alive to such legal requirement while issuing order of authorisation.

6. In the above view of the matter, we do not see any reason to hold that application raises any substantial question of law so as to seek statement of facts from the Tribunal.

7. In the result, application is dismissed with no order as to costs.

(J.P.DEVADHAR,J.) (V.C.DAGA,J.)

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